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Attorney for Defendants
Municipality of Anchorage
Andrew Cottle
Gregory Witte
Kenneth McCoy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

PATRICK L. SHORTY)
)
Plaintiff,)
)
vs.)
) Case No. 3:05-cv-00237-TMB
MUNICIPALITY OF ANCHORAGE, OFFICER)
ANDREW COTTLE, INDIVIDUALLY AND IN)
HIS CAPACITY AS AN ANCHORAGE POLICE)
OFFICER, OFFICER WITTE, INDIVIDUALLY)
AND IN HIS CAPACITY AS AN ANCHORAGE)
POLICE OFFICER, KENNETH D. MCCOY,)
INDIVIDUALLY AND IN HIS CAPACITY AS)
AN ANCHORAGE POLICE OFFICER)
)
Defendants.)
)

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Come now the Defendants, Municipality of Anchorage, Officer Andrew Cottle, Officer Gregory Witte and Officer Kenneth D. McCoy, by and through counsel, the

Anchorage Municipal Attorney, and move this court for summary judgment on all counts pursuant to qualified immunity and collateral estoppel. Plaintiff Patrick Shorty was lawfully arrested and subsequently convicted for first degree sexual assault, resisting arrest, assault (on a police officer), and making a false police report. The criminal convictions have the effect of collaterally estopping the civil action with respect to the common law claims. *Burcina v. City of Ketchikan*, 902 P.2d 817, 822 (Alaska 1995).

The defendants have qualified immunity from Section 1983 claims. *Saucier v. Katz*, 533 U.S. 194, 121 S.Ct. 2151, 150 L.Ed.2d 272 (2001). The doctrine of qualified immunity protects the actions of the officers at the scene of the arrest and the subsequent interrogation. The uncontested facts show that the officers did not violate any constitutional right of which a reasonable officer should have been aware.

The Municipal defendants respectfully request this court to grant summary judgment on all counts.

DATED this 22nd day of December, 2006.

JAMES N. REEVES
MUNICIPAL ATTORNEY

/s/ Elizabeth D. Friedman
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The undersigned hereby certifies that on 12/22/06 a true and correct copy of the *Defendants' Motion for Summary Judgment, Memorandum in Support, and Exhibits* were served on:

Patrick L. Shorty,
c/o 425 G St. Ste 600,
Anchorage, Alaska 99501

by first class regular mail, if noted above, or by electronic means through the ECF system as indicated on the Notice of Electronic Filing.

s/ Cathi Russell
Cathi Russell, Legal Secretary
Municipal Attorney's Office